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8 **Attorneys for Plaintiff,**
 9 **GLOBAL MERCHANDISING SERVICES, LTD.**

10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA**

12 **GLOBAL MERCHANDISING SERVICES,**
 13 **LTD.,**

14 **Plaintiff,**

15 **v.**

16 **JOHN DOES 1-100, JANE DOES 1-100 AND**
 17 **XYZ COMPANY,**

18 **Defendants.**

19 **Case No. 3:15-cv- 2683 SC-**

20 **[AMENDED PROPOSED]**

21 **TEMPORARY RESTRAINING**
 22 **ORDER; SEIZURE ORDER; AND**
 23 **ORDER TO SHOW CAUSE WHY A**
 24 **PRELIMINARY INJUNCTION**
 25 **AND SEIZURE ORDER SHOULD**
 26 **NOT ISSUE**

27 Based upon the previously filed complaint, memorandum of points and authorities, Declaration
 28 of Bradford James Andersen and the Certificate of Counsel of Cara R. Burns and all other pleadings
 and proceedings heretofore had herein and good cause being shown:

29 **IT IS HEREBY ORDERED** that defendants, John Does 1-100, Jane Does 1-100 and XYZ
 30 Company their true identities being unknown (collectively "Defendants"), show cause before the
 31 Honorable Samuel Conti, United States District Judge, in Courtroom 1 of the United States District
 32 Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco,
 33 California 94102, at 10:00 AM on July 2, 2015 or as soon thereafter as counsel can be
 34 heard, why an order pursuant to Fed. R. Civ. P. Rule 65 and the Lanham Act 15 U.S.C. § 1051 et. seq.,
 35 should not be entered granting to Plaintiff, Global Merchandising Services, Ltd., a preliminary
 36 injunction to enjoin the Defendants from manufacturing, distributing, selling or holding for sale, any
 37

38 Amended Proposed TRO, etc.

1 clothing, jewelry, photographs, posters and other merchandise (collectively the "Infringing
2 Merchandise") and seizing the same bearing the federally registered trademarks, service marks,
3 likenesses, logos, designs, and other indicia of the group known as the "GRATEFUL DEAD"
4 including those set forth in Exhibit A hereto and "Fare Thee Well, Celebrating 50 Years of the Grateful
5 Dead," or "Fare Thee Well" (collectively the "GD Trademarks").

6 **AND IT APPEARING TO THE COURT** that Defendants are about to sell and distribute the
7 Infringing Merchandise bearing any or all of the GD Trademarks as set forth in Plaintiff's complaint
8 and declaration, and will continue to carry out such acts unless restrained by order of the Court;
9

10 **AND IT APPEARING TO THE COURT** that immediate and irreparable injury, loss or
11 damage will result to the Plaintiff before Defendants can be identified and given notice and their
12 attorneys can be heard in opposition to the granting of the temporary restraining order, in that the
13 Defendants are preparing to manufacture, distribute and sell Infringing Merchandise as set forth in the
14 Plaintiff's complaint, and that, unless said Defendants are enjoined from said manufacture,
15 distribution, and sale, the Plaintiff will suffer immediate and irreparable injury and harm in the form of
16 a loss of income, lessening and dilution of the value of the GD Trademarks, interference with
17 Plaintiff's ability to exploit, market and license its merchandising rights, confusion in the marketplace
18 as to the duly authorized source of merchandise depicting the GD Trademarks, and impairment of the
19 good will Plaintiff and its licensors have in the said GD Trademarks;
20

21 **IT IS FURTHER ORDERED** that pending hearing and determination of this application, the
22 Defendants, their agents, servants, employees, attorneys, successors and assigns and all persons, firms
23 and corporations acting in concert with them, and each of them, be and hereby are temporarily
24 restrained from manufacturing, distributing and selling Infringing Merchandise bearing the any or all
25 of the GD Trademarks;
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1 **AND IT IS FURTHER ORDERED** that pursuant to 1116 (a), the United States Marshal, for
2 this District or any district in which Plaintiff enforces this order, the state police, local police or local
3 deputy sheriffs, off duty officers of the same, and any person acting under their supervision, are
4 hereby authorized to seize and impound any and all Infringing Merchandise bearing some or all of the
5 GD Trademarks, which Defendants attempt to sell or are holding for sale, including any from any
6 carton, container, vehicle, or other means of carriage in which the Infringing Merchandise is found
7 from six (6) hours before to six (6) hours after any performance of the tour within a ten (10) mile
8 vicinity of the halls, stadiums or arenas at which said tour shall be performing, including but not
9 limited to in connection with the concerts to be held June 27 and 28, 2015 at Levi's Stadium, in Santa
10 Clara, California;

12 **AND IT IS FURTHER ORDERED** that this order be and is hereby conditioned upon
13 Plaintiff's filing with the Clerk of this Court an undertaking in the form of a surety bond, credit card,
14 certified check, or cash in the amount of \$ 10,000 no later than June 25, 2015, to secure
15 the payment of such costs and damages not to exceed such sum as may be suffered or sustained by any
16 party who is found to be wrongfully restrained hereby;

18 **AND IT IS FURTHER ORDERED** that this temporary restraining order is conditioned upon
19 the Plaintiff's advancing to the law enforcement officers such sum as is required by the same to cover
20 the fees for their said services, in the event Plaintiff seeks their services in this or any other district;

21 **AND IT IS FURTHER ORDERED** that service of a copy of this order to show cause
22 together with the complaint upon which it is based, be made upon the Defendants by the United States
23 Marshal, state or local police, local deputy sheriffs or by any person over the age of eighteen (18)
24 years not a party to this action selected for that purpose by the Plaintiff, at the time of the seizure
25 provided herein is effected and that such service shall be deemed good and sufficient;
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1 **AND IT IS FURTHER ORDERED** that the process server shall offer a receipt to each
 2 person from whom Infringing Merchandise is seized and that the Plaintiff shall be deemed substitute
 3 custodian for all Infringing Merchandise seized;

4 **AND IT IS FURTHER ORDERED** that each and every defendant served with a copy of this
 5 order promptly, courteously and peaceably identify himself or herself to the aforementioned process
 6 server and that the process server or agents for Plaintiff be allowed to photograph, video tape or
 7 otherwise identify the Defendant;

8 **AND IT IS FURTHER ORDERED** that Defendants' responsive papers, if any, shall be filed
 9 with the Clerk of this Court and served upon the attorneys for Plaintiff by delivering copies to its
 10 counsel on or before June 29, 2015. Any reply shall be filed by the Plaintiff and served upon
 11 each appearing defendant or his/her counsel on or before June 30, 2015. Plaintiff is to
 12 provide copies of all other filed pleadings at the request of any identified defendant;

13 **AND IT IS FURTHER ORDERED** that pursuant to F.R.C.P. Rule 65 (b) (4), any Defendant
 14 can apply to this Court to dissolve or modify this Order on two (2) days notice or shorter notice as this
 15 Court may allow, but no such application shall serve to suspend this Order or stay its terms unless
 16 otherwise ordered by this Court.

17 **IT IS SO ORDERED.**

18 Dated: June 22, 2015

19 At: 11:29 A.M.

SAMUEL CONTI
UNITED STATES DISTRICT JUDGE

20 Respectfully Submitted,
 21 GLOBAL MERCHANDISING SERVICES, LTD.,
 22 /s/Cara R. Burns

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EXHIBIT A TO TRO

I. Word Marks - GRATEFUL DEAD, DEAD HEAD, THE DEAD, and GD

II Design Marks





NOTE PENDING REGISTRATION



